

REMARKS

Claims 1-4, all of the claims pending in this case, are rejected under 35 U.S.C. §103(a) as being unpatentable over Uchida et al. in view of JP 2000-262899. The office action states that Uchida et al. teach a fuel cell comprising a polymer electrolyte membrane with an electrolytic surface, with a porous anode backing abutting the electrolyte membrane and having a CO oxidation catalyst on a second surface of the backing. Uchida et al. do not expressly teach that the CO oxidation catalyst is a non-precious metal selected from the group recited by applicants. JP 2000-262899, however, teaches a CO oxidation catalyst for removing CO from a reformed gas stream, where the catalyst may be Cu, Mo, W, Fe, Co, or an oxide thereof. Since JP 2000-262899 teaches that the oxidation catalysts are capable of removing CO in a fuel cell fuel stream, it would have been obvious to combine JP-2000-262899 with Uchida et al.

In view of the attached Declaration from Francisco Uribe, one of the inventors of the present invention, applicants respectfully assert that applicants conceived and reduced to practice the claimed invention before the JP 2000-262899 publication date of September 26, 2000. Conception occurred at least by September 10, 1997, as noted by a notebook entry that non-precious metal catalysts on an anode backing could be used to improve CO-tolerance. An experimental program began in September 1997, as shown by notebook pages with ink preparations used to apply the catalysts materials to fuel cell backings, where the fuel cells are identified by number, and by laboratory log book pages showing the experimental runs for each fuel cell number. These experiments were completed by June 28, 1998. As shown in Table 1, the experiments showed acceptable performance for all of the relevant materials taught by JP 2000-

262899 such that a reduction to practice of the materials claimed by applicants was completed by at least June 28, 1998. An invention disclosure for the claimed invention was initially completed on March 9, 1999, and submitted on September 24, 1999, for processing.

Applicants respectfully assert that the Declaration establishes that applicants were in possession of the whole invention claimed by applicants before the publication date of JP 2000-262899. JP 2000-262899 should be removed as a reference in this case. Since the rejection relied on JP 2000-262899 to teach the use of various non-precious metal catalysts claimed by applicants, and none of the other references of record in this case teach such non-precious metal catalysts, applicants request that Claims 1-4 be allowed and this case passed to issue.

Applicants' attorney would be pleased to discuss any of these matters with the Examiner if the Examiner concludes such a discussion would assist in moving this case to issue.

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Reg. No. 28,351
Phone (505) 665-3112

Ray G. Wilson
Signature of Attorney

Ray G. Wilson
Los Alamos National Laboratory
LC/IP, MS A187
Los Alamos, New Mexico 87545